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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re THOMAS G., a Person Coming Under the
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF HUMAN
SERVICES,

Plaintiff and Respondent,

v.

V.G.,

Defendant and Appellant.

F067170

(Super. Ct. No. JD104129-01)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Kern County. William D. Palmer,
Judge.

Mitchell Keiter, under appointment by the Court of Appeal, for Defendant and
Appellant.

Theresa A. Goldner, County Counsel, and Kelli R. Falk, Deputy County Counsel,
for Plaintiff and Respondent.

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* Before Poochigian, Acting P.J., Detjen, J. and Franson, J.

Appellant V.G., Sr. (father) challenges the juvenile court's order denying him visitation with his 12-year-old son, Thomas, at a post-permanency plan review hearing. (Welf. & Inst. Code, § 366.3.)¹ Father contends the juvenile court's order stems from the improper taking of judicial notice of a matter concerning his son's autism and must be reversed. We conclude father abandoned his claim of error and dismiss the appeal.

PROCEDURAL AND FACTUAL SUMMARY

In February 2007, the Kern County Department of Human Services (department) took then five-year-old Thomas, his six-year-old twin sisters (hereafter "twins") and seven-year-old brother, V.G., into protective custody because of their mother's methamphetamine use. Father's whereabouts at the time were unknown.

The juvenile court exercised its dependency jurisdiction and provided the mother 12 months of reunification services. During that time, Thomas was diagnosed with Asperger's Disorder. In March 2008, the juvenile court terminated the mother's reunification services and, at a section 366.26 hearing in July 2008, ordered the children into a planned permanent living arrangement. Thomas and the twins were placed in one foster home and V.G. was placed in another.

Over the ensuing five years, the juvenile court conducted periodic review hearings and maintained the children in their placements. In March 2012, the juvenile court appointed a court-appointed special advocate (CASA).

By the review hearing scheduled for March 2013, father was in contact with the department and asking for visitation. He was incarcerated on a drug-related charge and expected to be released in May or June of 2013. He wanted to visit the children at their discretion as he understood that they had not seen him in several years, which he admitted was because of his drug use. He did not request in-custody visits.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

The status review hearing was continued so the department could assess father's request for visitation. In late March 2013, a social worker interviewed the children to ascertain their desires. V.G. stated he might consider visiting father after his caretaker adopted him. The caretaker stated he wanted to move forward with the adoption and wanted to adopt Thomas as well, to keep the boys together. The twins said they wanted to visit father and wanted to attend the upcoming review hearing. Thomas said he was interested in visiting father but did not want to attend the hearing. Thomas told another social worker that he did not want to see his father "at all."

The department filed a supplemental report for the continued review hearing set for April 2013. The department advised the juvenile court there were concerns with visitation. However, the children expressed their desire to visit and the department did not believe there was a risk of detriment to the children if visitation was ordered.

In April 2013, father appeared in custody with counsel at the status review hearing and requested an hour of supervised visitation every other week after he was released from custody. Minors' counsel and county counsel suggested once a month visitation and the CASA supported Thomas's request not to visit.

The juvenile court ordered visitation for the twins and V.G. but denied father visitation as to Thomas, finding visitation would not be in Thomas's best interest. The juvenile court explained that autism is a well-known condition of which it could take judicial notice and which is aggravated by a change in the autistic child's routine. The juvenile court, however, did not take judicial notice of any matter.

The juvenile court set a review hearing for Thomas and the twins for April 2014, and a section 366.26 hearing in August 2013, as to V.G. This appeal ensued.

DISCUSSION

Father contends the juvenile court erred in taking judicial notice that "'change [will] act as a detriment to an Autistic child' and denying visitation on that basis." We

conclude father's contention is not factually supported by the record and is thus abandoned.

“The juvenile court’s judgment is presumed to be correct, and it is appellant’s burden to affirmatively show error. [Citation.] To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error. [Citations.] When a point is asserted without argument and authority for the proposition, ‘it is deemed to be without foundation and requires no discussion by the reviewing court.’ (*Atchley v. City of Fresno* [(1984)] 151 Cal.App.3d [635,] 647; accord, *Berger v. Godden* [(1985)] 163 Cal.App.3d [1113,] 1117 [‘failure of appellant to advance any pertinent or intelligible legal argument ... constitute(s) an abandonment of the (claim of error’)].)” (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.)

Father does not cite this court to any evidence in the record that the juvenile court took judicial notice of any matter and we did not find any such evidence in our review of the record. The only reference to judicial notice is the juvenile court’s statement that it believed it *could* take judicial notice of what it believed to be a commonly held medical opinion that change is detrimental to an autistic child. However, the juvenile court did *not* take judicial notice of that matter. Consequently, father’s argument is not factually supported by the record.

Further, father does not otherwise challenge the propriety of the juvenile court’s order denying him visitation. Accordingly, we dismiss the appeal as abandoned.

DISPOSITION

The appeal filed on April 29, 2013, is dismissed.